

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN W. KRAFCHICK,

Petitioner.

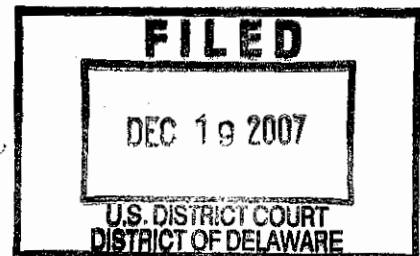
v.

ELIZABETH BURRIS, Acting Warden,  
and JOSEPH R. BIDEN, III, Attorney  
General of the State of Delaware,

Respondents.

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Civil Action No. 07-284-GMS



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MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, petitioner moves for an extension of time in which to file a reply to the defendants answer brief. In support thereof, petitioner states the following:

1. The petitioner, Steven W. Krafchick, has applied for federal habeas relief in the District Court for the District of Delaware and is currently an inmate and incarcerated at the Delaware Department of Corrections Delaware Correctional Center located in Smyrna, Delaware.

2. The petitioner was served by the mail room of the (DOC) December 10, 2007 and has not had an opportunity to utilize the law library until today Monday, December 17, 2007.

In determining whether to grant petitioner an extension of time to serve defendants, a District Court should examine a two-step procedure.

First, the District Court should determine whether "good cause" exist for an extension of time. If good cause is present, the District court must extend time for service and inquiry is discharge. If however, good cause does not exist, the court in its discretion decides whether to dismiss the motion for the extension of the time for service or make other allowances as deemed appropriate by its authority.

The Third Circuit Court has defined "good cause" as being tantamount to "excusable neglect" under Rule 6 (b) pursuant to the Federal Rules of Civil Procedures. The Third Circuit further explains factors that were relevant to evaluate a claim and to determine whether it was excusable neglect. 1) Whether the inadvertence reflected professional incompetence such as ignorance of rules of procedure, in considering the following, the record should reflect that the petitioner has had no formal training in the area of Federal Law and its procedures. 2) The court should also take in to account that even those among the legal profession have difficulty from time to time in this area of 28 § 2254 legal proceedings which deal with Habeas Corpus Relief. 3) The petitioner submits, that it is not a lack of diligence on the petitioner part. 4) The petitioner is diligently research and trying to prepare his reply brief to the defendants answering brief. 5) Due to the restrictions placed on the petitioner to utilize the law library at the place of confinement, is has hindered the petitioner's efforts to prepare his reply brief in a timely manner. The District Court should in addition, take into account that this motion is being presented in "good faith" and should not bring any unfair advantage or disadvantage to either side and is unavoidable. The petitioner is not fully relieved of his duty to serve defendants and understands that (Pro-se) status does not eliminate the petitioners' duties in this case, however, it would be

practical and judicial and better serve the interest of justice if the petitioner's motion were granted extending time for services.

In support of this motion, the petitioner offers the following:

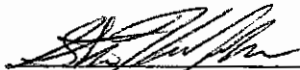
- 1) The petitioner's law library times are controlled and regulated by the Delaware Department of Corrections and the petitioner is limited to access as to what times and days he may utilize the law library.
- 2) Due to the upcoming holidays, the Department of Corrections law library hours are limited, due to the state recognized holidays.
- 3) The defendants answering brief brings case law for its support that needs to be researched, and the petitioner submits that he would be better able to respond to its contentions if allowed this time.

In conclusion, it is beyond the control of the petitioner in this case to make a diligent effort to respond in a timely manner, therefore, the petitioner prays that this Court will grant this motion and allow the petitioner much needed time to prepare his response.

This is the Petitioner's first request for an extension of time pursuant to Rule 6 of the Federal Rules of Civil Procedures.

Petitioner submit that an extension of time to and including January 9, 2008 would give sufficient time to research and prepare a response to the defendants contentions. Petitioner submits herewith a proposed order.

Dated: December 17, 2007

  
Steven W. Krafchick (Pro-se)  
I.D. # 178856  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the defendants, who works in the Department of Justice Attorney Generals Office due to time restraints on the petitioner at this time to the subject matter of this motion.

Dated: December 17, 2007



Steven W. Krafchick (Pro-se)

I.D. # 178856

Delaware Correctional Center

1181 Paddock Road

Smyrna, DE 19977

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General of the State of Delaware,

Respondents.

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**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2007

WHEREAS, petitioner having requested an extension of time in which to file an answer,  
and

WHEREAS, it appearing to the Court that the requested extension is timely made and  
good cause has been shown for the extension to be granted,

IT IS HEREBY ORDERED that petitioners answer shall be filed on or before January 9,  
2008.

\_\_\_\_\_  
United States District Judge

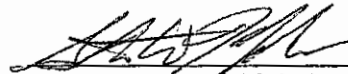
CERTIFICATE OF SERVICES

I hereby certify that on December 17, 2007, I Steven W. Krafchick have generated a true and correct copy of the petitioner's motion for extension of time and served said copies upon the following parties/person(s):

TO: Elizabeth R. McFarlin  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
Del. Bar. ID No. 3759  
(Attorney for Defendants)  
ELIZABETH BURRIS, Acting Warden,  
and JOSEPH R. BIDEN, III, Attorney  
General of the State of Delaware

TO: Clerk of Court  
Peter T. Dalleo  
United States District Court  
844 King Street, Lockbox 18  
Wilmington, DE 19801

BY PLACING SAME in a sealed envelope and placing same in the United States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977 on this 17 day of December, 2007

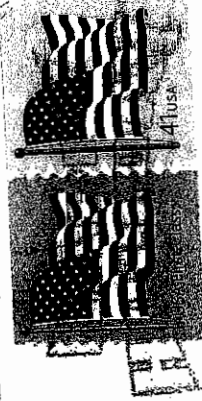
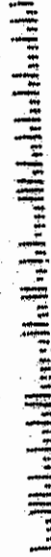
  
Steven W. Krafchick (Pro-se)  
I.D. # 178856  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

I/M Steven Krotschick  
SBI# 178856 UNIT V-Bldg.  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977

Clerk of Court (Attn: Peter T. Dalles)  
United States District Court  
844 King Street, Lockbox 18  
Wilmington, Delaware  
19801

\* Legal Mail

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